

DISTRICT COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU, 10th JUDICIAL DISTRICT

PEOPLE OF THE STATE OF NEW YORK,

-against-

FELONY COMPLAINT

**WILLIAM SINGLER and
ZMOD PROCESS CORPORATION, INC.,
dba AMERICAN LEGAL PROCESS, INC.,**

Defendants.

I, **Sandra Migaj**, an Investigator with the New York State Attorney General's Office, deposes and states that the defendants, **WILLIAM SINGLER and ZMOD PROCESS CORPORATION, INC., DBA AMERICAN LEGAL PROCESS, INC.**, at the dates and times indicated below, committed the following crimes:

CRIMINAL POSSESSION OF A FORGED INSTRUMENT in the SECOND DEGREE, in violation of § 170.25 of the Penal Law of the State of New York (a class D felony), and

OFFERING A FALSE INSTRUMENT FOR FILING in the FIRST DEGREE, in violation of § 175.35 of the Penal Law of the State of New York (3 Counts) (a class E felony),

SCHEME TO DEFRAUD in the SECOND DEGREE, in violation of § 190.65(1)(a) (a class E felony), and

NOTARY PUBLIC or COMMISSIONER OF DEEDS; ACTING WITHOUT APPOINTMENT; FRAUD IN OFFICE, in violation of § 135-a(2) of the Executive Law of the State of New York (a class A misdemeanor) (defendant Singler only),

in that the defendants, on or about February 26, 2008 in the Village of Lynbrook,

County of Nassau, State of New York, when knowing that it was forged and with intent to defraud, deceive and injure another, uttered and possessed a forged instrument; to wit: a public record that was to be filed with a public office; and that the defendants, on or about January 16, 2007, March 28, 2007 and February 26, 2008, in the Village of Lynbrook, County of Nassau, State of New York, when knowing that a written instrument contained a false statement and false information, and with the intent to defraud the state and any political subdivision, public authority and public benefit corporation of the state, offered and presented to a public office, public servant, public authority and public benefit corporation, with the knowledge and belief that it would be filed with, registered and recorded in and otherwise become a part of the records of such public office, public servant, public authority and public benefit corporation; and that the defendants, between on or about January 1, 2008, and on or about October 8, 2008 June 30, 2008, within the Village of Lynbrook, County of Nassau, State of New York, engaged in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons and to obtain property from ten or more persons by false and or fraudulent pretenses, representations and promises and so obtained property from one or more such persons; and that the defendant William Singler, on or about February 26, 2008, within the Village of Lynbrook, County of Nassau, State of New York, a notary public, in the exercise of the powers, and in the performance of the duties of such office, practiced fraud and deceit.

FACTUAL BASIS

These crimes were committed under the following circumstances:

1. This felony complaint is based upon information and belief, with the grounds for the deponent's information and the source for her belief being the investigation conducted by the New York State Attorney General's Office ("NYSAG"); public records filed in the Genesee, Monroe and Orange County Clerk's Offices; information obtained from the Genesee, Monroe and Orange County Clerk's Offices; a review of the ProcessCase.com database; my review of the audit of ProcessCase.com by the New York State Unified Court System Office of Court Administration, conversations with those individuals listed below; and observations made by NYSAG investigators and others.

2. I have been employed by the NYSAG for 19 years. During that time, I have received training, and am familiar with the statutes, rules and regulations (specifically CPLR Article 3, Sections 301-312) regarding the proper method for service of process. In addition, as part of my duties as a NYSAG investigator, on several occasions, I have served process upon individuals through personal or substituted service.

3. Since February 2008, I have been involved in an investigation regarding ZMOD Process Corporation, Inc., dba American Legal Process ("ALP"), a process serving company who's primary clients are high volume debt collection law firms from throughout the state to serve process on individuals who owed money to the law firm's clients. The law firms paid and relied upon ALP for their services including the purchase of index numbers from the courts and clerks' offices, service of process on debtors and the filing of affidavits of service at those courts and clerks' offices. Through the course of my investigation, I have identified over fifteen law firms that hired ALP to effectuate service and file affidavits of service.

4. Based upon my training and experience, I know that before a creditor

seeking to collect a debt can garnish a debtor's paycheck or seize bank accounts and personal property, the creditor must initiate a lawsuit and then obtain a judgment. Such a case is commenced by purchasing from the court a unique index number identifying a particular case. Subsequently, a default judgment may only be secured from a court and filed in the clerk's office after a debtor has been given notice of the legal proceeding through service of the legal papers associated with the matter; an affidavit attesting to that fact has been filed with the court; and the debtor has had the opportunity to respond and contest the creditor's claims; and the debtor has failed to respond and contest the action. I am informed by George Danyluk, Internal Audit Manager ("Danyluk") of the Office of Court Administration that, unless service of the legal papers is made in accordance with this procedure, the resulting judgment may be void or voidable. If a process server claims that proper service upon a party has been made, the server must provide the court clerk where the action is pending with an affidavit detailing the manner and method by which the alleged service was made. To effectuate proper service of process, the server must either have personally served the named party, or if the server was unable, with due diligence, to find the party or a person of suitable age and discretion, then the server may attach the legal papers to the door at the party's address and then mail a copy of the papers to the location (so-called "nail and mail" service). I am further informed by George Danyluk that case law has generally construed due diligence to require that the server make three attempts on three different dates and times to effectuate personal service before resorting to "nail and mail" service.

5. On April 6, 2009, I reviewed the Certificate of Incorporation which was filed with the State of New York Department of State on June 8, 2006, for ZMOD Process Corporation, Inc., dba American Legal Process, Inc., located at 381 Sunrise Highway,

Lynbrook, New York, and determined that William Singler (“Singler”) is listed as the President and Chief Executive Officer of ALP.

6. October 1, 2008, the NYSAG seized paper and electronic records from ALP’s offices at 381 Sunrise highway, Lynbrook, New York during the execution of a court-ordered search warrant. From these records, I learned that ALP maintained an electronic database called ProcessCase.com, a company located in the New York City and Long Island areas, which detailed the information relating to the cases for which ALP was hired to effectuate service. The NYSAG obtained a copy of this data base.

7. The ProcessCase.com database contains over 102,000 records of service of documents, of which 98% were summonses and complaints for ALP from January 1, 2007 through October 8, 2008. Each record of service contained, *inter alia*, the following:

- a. The date when respondents sent the document to be served to the process server,
- b. The date when respondents (or its process server) purchased the index number,
- c.
- d. The name and address of the defendant, name of the server and notary,
- e. The date and time when the process server served the document,
- f. When the process server used nail-and-mail service, the dates and times of each service attempt, the date the summons and complaint was mailed to the defendant, and the name and address of the neighbor.
- f. The date when an affidavit of service reflecting the information about the service was sworn to, mailed to and filed with the court.

8. I am informed by Danyluk that the ProcessCase.com data base shows that of the over 102,000 cases, in approximately 73,395 instances, Singler was the notary, despite the fact that the ALP servers were located all across New York State. Further,

that when a process was made by nail and mail service, for more than 74% of the cases, the party defendant did not answer and the creditor sought and obtained a default judgment.

9. I am further informed by Danyluk that the ProcessCase.com database shows that, on 3,512 occasions, respondents' servers served, or attempted to serve, documents on (i) different defendants (ii) at two different locations (iii) on the same date and (iv) at the same time. For ease of reference, I refer to the service of process and the attempted service of process as "service attempts" or "attempted service". For example, ProcessCase shows that on 407 occasions, one of respondents' servers, Raymond Bennett, was at two or more different locations at the same time. On 39 occasions, the ProcessCase shows Bennett was at three locations at the same time, on 3 occasions he was at four locations at the same time, and on one occasion he was at five locations at the same time.

10. I am also informed by Danyluk that a table was created demonstrating that ALP's servers statewide being at two or more locations at the same time.

Name	Instances at 2 locations or more	Instances at 3 or more locations (included in the previous total)
Raymond Bennett	407	39 times at 3 locations at same time, 3 times at 4 locations, and once at 5 locations at same time
Dunham Toby Tyler	839	39 times at 3 locations at same time, and once at 4 locations at same time
Gene Gagliardi	450	18 times at 3 locations at same time, and twice at 4 locations at same time
Drefel Grimmatt	388	9 times at 3 locations at same time

Name	Instances at 2 locations or more	Instances at 3 or more locations (included in the previous total)
Bill Matzel	199	15 times at 3 locations at same time
John Hughes	184	4 times at 3 locations at same time
Andrea D'Ambra	168	6 times at 3 locations at same time
Greg Tereshko	165	3 times at 3 locations at same time
Diana Lentz	134	2 times at 3 locations at same time
Herb Katz	125	9 times at 3 locations at same time
Bernard Holder	81	1 time at 3 locations at same time
Adnan Omar	69	1 time at 3 locations at same time
Annette Forte	68	2 times at 3 locations at same time
Issam Omar	51	1 time at 3 locations at same time
Beth Eubank	42	1 time at 3 locations at same time
Michelle Miller	42	4 times at 3 locations at same time

11. Danyluk further informed me that the ProcessCase database shows that on approximately 13,040 occasions fifty-five of ALP' servers attempted to serve a document on a defendant before the document was transmitted from ALP to the process server, and that on 521 occasions, twenty-two of ALP' servers attempted to serve a summons and complaint on a defendant before the plaintiff had purchased an index number, and filed the summons and complaint with the appropriate court or count clerk.

12. On April 3, 2009, I spoke with Emily Katt ("Katt"), from Newburgh in Orange County, New York. Katt informed me that she has been a process server

employed by ALP since January 2008, and that she was hired by Singler. Katt stated that throughout the course of her employment, she occasionally spoke with Singler on the telephone regarding her employment with ALP. Katt also indicated that she received instructions from ALP employees Mary Hughes (“Hughes”), the office manager of ALP from August 2005 to December 2008, and Linda Hand (“Hand”), who was ALP’s Process and Court Service Investigation manager.

13. Katt described ALP’s procedures for serving process as follows: ALP would mail Katt legal papers to serve on a party, as well as a worksheet on which to record the method, dates and times of service. Starting in March 2008, Katt, at the direction of an ALP employee, purchased index numbers from various courts that had jurisdiction over the cases to which she was assigned, and then she completed the service of process upon the named defendant as she had been directed by ALP. After Katt completed the worksheets, she would scan and email them to ALP at the Lynbrook office. Katt did not complete or sign any affidavits of service during this period; and Katt did not go to ALP’s offices in Lynbrook, New York. Katt further stated that at the beginning of her employment with ALP, Hand told her that ALP would mail out the copies of the legal papers to the named party. Katt stated that she did not mail any summons and complaint to a party prior to August 2008.

14. Katt told me that in the spring of 2008 (which was after NYSAG’s investigation into ALP’s practices became known publicly), she first began to receive from ALP affidavits of service that had been prepared for her to sign regarding the cases assigned to her. Katt told me that Hand at ALP told her to sign them and have her signature notarized by a local notary. Prior to the spring of 2008, Katt claimed that she was unaware that affidavits of service had been created from the worksheets she

submitted to ALP and subsequently filed with the courts. At some point after April, 2008, Katt asked Singler on the phone who had been signing the affidavits of service on her behalf in cases in which she had served process before the spring of 2008. Singler told Katt that he had signed the affidavits of service himself.

15. I showed Katt a copy of an affidavit of service allegedly sworn to on February 26, 2008, regarding the case of Household Finance Corporation III v. Marie M. Esperance, which had been filed in the Supreme Court of the State of New York, County of Orange, on March 3, 2008 (“Esperance affidavit”). The affidavit stated that the alleged method of service was nail and mail. Two printed names and two corresponding signatures appear at the bottom of the Esperance affidavit: one for the alleged server and the other for the notary. The server name is listed as Emily Katt and that signature purports to have been notarized by Will Singler in Nassau County. Katt told me that she did not sign the Esperance affidavit and that she did not give anyone permission to sign her name to that or any other document.

16. The Esperance affidavit alleges that Katt mailed a copy of the summons and complaint via United States mail on February 26, 2008. Katt denied that she had ever mailed the summons and complaint to Ms. Esperance, the named party on the purported affidavit of service.

17. The Esperance affidavit also alleges that Katt attempted personal service on the Ms. Esperance, the named party, on February 19, 2008, at 8:11 pm; February 20, 2008, at 7:52 am; and February 21, 2008, at 1:26 pm. Katt acknowledged that she had fabricated the first two claimed attempts at service in the worksheet she gave to ALP. Katt stated that, in her initial conversation with Hand of ALP, Hand told her in substance that: “The law says you have to go three times, but I know that it is a lot of driving, so if

you go once you can just tack it.” Katt further indicated that in those cases when she purchased the index number from the court, she would make only one attempt at service on the same day. Katt would then fabricate two false previous dates of attempted service, and record them on the worksheets she sent to ALP. Katt recalls that Hughes at ALP notified Katt in substance that she “had to fix her paperwork because your attempts were before the index number was purchased. Wait a couple of days so your dates don’t conflict.”

18. I have reviewed documents and records seized from ALP pursuant to the a court-ordered search warrant described in paragraph 5 above at 381 Sunrise Highway, Lynbrook, New York, on October 1, 2008. Included in the seized material is a three-page paper document (“Premature Serve List”). The first page contains a handwritten note that states, “Hey - need to let the P/S’s know that they cannot use day B4 index bought same day as 1st attempt.” Hughes, Hand and Nancy Greco (see below), all former ALP employees, told me that this was Singler’s handwriting. Attached to the first page of this document is a two-page list with the following heading on each page: “INDEX PURCHASED 01/01/08 to 06/30/08 GREATER THAN FIRST ATTEMPT DATE”. The document has the following columns: Job ID; Document Type; Date Index Purchase; Date Given to Process Server; Attempted Date/Time; and Process Server. The Esperance case referred to above is included on this list, and identifies Emily Katt as the alleged server. I have reviewed records seized from ALP which indicate that during this period, ALP had over 15 law firms as clients.

19. There are more than 100 cases on this two-page list. In each case, the first purported attempt at service is before the date that the index number was purchased, and, according to ALP records, before the court papers were even given to

the servers. I have compared the information on this list to that contained in the ProcessCase.com database and found it to be consistent. I have also received and reviewed affidavits of service that have been filed in the various courts throughout the State relating to the Job IDs on the list.

20. On April 2, 2009, I spoke with Mary Hughes formerly of ALP in Levittown, Nassau County, New York. Hughes stated that she was ALP's office manager from August 2005 to December 2008. Hughes confirmed that ALP's procedure was to give the servers a worksheet on which to record the alleged dates and times of attempted service. ALP employees would then enter the information on the worksheet into ProcessCase.com and generate an affidavit of service.

21. Hughes informed me that ALP did not send the affidavits of service to the various process servers to sign until approximately April 2008. Hughes told me that she never met many of ALP's servers. She indicated that in the time that she worked for ALP, she had no knowledge of servers Emily Katt and Diana Lentz (see below) ever coming to the ALP offices in Nassau County. Hughes further stated that, before April 2008, she saw unsigned and unnotarized affidavits of service in Singler's office. She later observed that these affidavits were completed, purported to contain the server's signature and did contain Singler's signature as the purported notary. Hughes stated that ALP then sent these affidavits directly to the court directly. Hughes further stated that she saw Singler request that some of the servers send him samples of their signatures. For rush jobs, Singler instructed Hughes to sign his name as the notary, which she did. Also, prior to April 2008, ALP, not the servers, sent out all of the mailings to the debtors in nail and mail situations. Hughes stated that any returned mail (situations in which the party had either moved or died, for instance, and thus could not

have received the mailed service) was placed in Singler's office; and that she never saw Singler open any of the returned mail, even though there were many returned envelopes.

22. Hughes informed me that, on many occasions, ALP received servers' worksheets in nail and mail situations that listed only one attempt at personal service. On these occasions, Singler instructed Hughes to fabricate and enter two other dates and times of claimed attempted service. When servers called the ALP offices to complain about rush jobs, Hughes indicated to me that she overheard Singler tell the servers to "just tack it" to the door. Hughes stated that Singler also told Hand to give the servers the same instructions.

23. Hughes told me that Singler sometimes requested that she send out a memo to the servers outlining the procedures for the worksheets. On April 11, 2008, I was involved in the execution of a search warrant executed at the residence of a former ALP process server Annette Forte ("Forte"), located at 12528 Broadway, in the Town of Alden, Erie County, New York. I have reviewed the records seized.

24. Included in the records found at Forte's residence was a fuchsia-colored 8 ½ by 11-inch piece of paper that contained the following information:

TO ALL PROCESS SERVERS:

ALL NAIL AND MAIL SERVICES MUST HAVE AT LEAST THREE ATTEMPTS (INCLUDING SERVICE):

-ONE EARLY MORNING TIME - BEFORE 9:00 AM

-ONE AFTERNOON TIME - BETWEEN 12:00 PM AND 5:00 PM

-ONE EVENING TIME - FROM 6:00 TO 11:00 PM

IF YOU DO NOT HAVE ONE OF EACH, YOUR WORK WILL BE RETURNED TO YOU
!!!! WHEN YOU DON'T DO THIS, IT MEANS THAT I HAVE TO DO IT, AND IT TAKES A LOT OF TIME FOR ME TO CHANGE HUNDREDS OF WORKSHEETS. I APPRECIATE YOUR COOPERATION WITH THIS. THANKS. [emphasis added]

MARY

25. On April 2, 2009, I spoke to Linda Hand in Floral Park, Nassau County, New York. Hand stated that she worked at ALP for Singler from February 2007 to December 2008. During the course of her employment, Hand heard Singler tell the servers that "No one is following you," and Singler told Hand that she should also tell servers this; Hand did so. Hand also told me that she never saw Singler open the returned mail referred to above, and that, prior to April 2008, the returned mail was routinely thrown in the garbage.

26. Annexed hereto is a photograph taken on October 1, 2008, in front of Singler's desk in his office at ALP. The photograph shows boxes overflowing with 1,042 envelopes returned by the United States Postal Service to respondents as undeliverable. These envelopes contained summonses and complaints that had been mailed by respondent (or their servers) to defendants who they had served by nail-and-mail service.

27. On April 2, 2009, I spoke with Nancy Greco ("Greco") in East Meadow, Nassau County, New York. Greco stated that she was ALP's bookkeeper from February 2005 to December 2008. Greco told me that she heard Singler instructing the process servers over the phone to "just tack it", and "just get it done." Greco also told me that she saw faxes coming in to ALP that contained signature samples of various servers.

28. I am informed by NYSAG Senior Investigator Paul Scherf that he spoke to Diana Lentz ("Lentz"), an ALP server, on June 11, 2008, in Buffalo, Erie County, New York. Lentz provided copies of email between herself and ALP. One email, dated December 22, 2006, is from Singler to Lentz with a copy to Hughes, in which Lentz tells Hughes, "Hi Mary, Job ID 36525 served 12/22/2006 @ 1:13 pm, nail and mail, confirmed by 3 Bleakre Road, 14609. Light grey house, affixed to front door. This was faxed to me

yesterday, it's an old case. Thanks, Diana." The email response from Singler states, "Hi Diana, Thanks for getting it done... Remember we need 3 att on 3 diff days. Could u pls confirm the nail date as of 12/23/06,... as u and the client know, we and u received the case the case fax on 12/21, so u must have made ur first attempt that night, tried again on the 12/22 and ur 3rd attempt must have been on the 12/23...Thank u for correcting ur records. U understand. This is a tricky one.. Best, Will."

29. On April 8, 2009, I received from the Monroe County Clerk's Office a copy of an affidavit of service relating to a nail and mail service at 12 Bleaker Road, Rochester, New York 14609, which was filed on January 16, 2007. This affidavit of service was captioned Capital One Bank v. Dorothy Nasello. The dates and times of the attempts at service were, December 21, 2006, at 07:40 pm, December 22, 2006, at 08:12 am, and December 23, 2006, at 01:13 pm. This affidavit of service bears the name and signature of Diana Lentz as the server and the name and signature of Annette Forte as the notary and the "sworn-to date" is December 26, 2006. The affidavits indicate that they were sworn to in Nassau County, though the notary information contained on the affidavit of service indicates that Annette Forte is a Notary Public qualified in Monroe County.

30. Lentz also gave Sr. Inv. Scherf an email dated March 26, 2007, from Hughes to Lentz regarding a "rush service." The email states: "Hi Diana, We just sent you two cases last week that I need to see if you can rush them. The numbers are 50588 and 50589, Richalene A Pfendler and Bruce P Pfendler in Genesee County (same case, but two different addresses). Can you please serve these ASAP, but only tack them? The index number is expiring next week, so I am going to enter them as a nail and mail and send the AOS to court today. If you could just tack them at the two

addresses and let me know, I would really appreciate it. Thanks so much.”

31. On April 8, 2009, I received from the Genesee County Clerk’s Office a copy of two affidavits of service relating to a nail and mail service on Richalene A and Bruce P Pfendler of Genesee County, which were filed on March 28, 2007. The affidavits of service were captioned JP v Morgan Chase Bank, N.A. v. Richalene A Pfendler and Bruce P Pfendler. At the bottom of one of the affidavits is a printed number “50588” with the place of residence being 1804 Linwood Drive (private house), Lindwood, Is it Linwood or NY, 14486, and the dates and times of the attempts at service were, March 12, 2007, at 07:19 pm, March 16, 2007, at 08:03 am, and March 23, 2007, at 02:06 pm. At the bottom of the other is a printed number “50589” with the place of residence being 33 Lake Street Apt #A, LeRoy, NY 14482 and the dates and times of the attempts at service were, March 12, 2007, at 07:48 pm, March 16, 2007, at 08:26 am, and March 23, 2007, at 02:39 pm. The affidavits of service bear the name and signature of Diana Lentz as the server and the name and signature of William Singler as the notary and the sworn to date is March 26, 2007. The affidavits indicate that they were sworn to in Nassau County.

32. On February 4, 2009, Sr. Inv. Scherf spoke with Andrea D’Ambra in Middle Island, Suffolk County, New York. D’Ambra stated that she had worked for ALP as a server since May 2007. D’Ambra told Sr. Inv. Scherf that she did not sign affidavits of service until May or June of 2008 when she was instructed by either Singler or Hand that this was now going to be required. She further told Sr. Inv. Scherf that Singler told her, in substance, that because of the cost of gas and the time required, she was not expected to attempt service three times.

33. On April 1, 2009, I spoke with D’Ambra in Happaage, Suffolk County, New

York. I showed her a copy of an affidavit of service dated September 22, 2008, regarding a case entitled GE Money v. Edward Medina, that had been filed in the District Court of Suffolk on September 28, 2008. The affidavit of service claimed that the server was Andrea D'Ambra with a signature, and that the notary was Linda Hand, with her signature. D'Ambra indicated to me that this was her signature.

34. I showed D'Ambra three affidavits of service that had been included on the above-referenced Premature Server List. The three affidavits related to three lawsuits filed on February 13, 2008, in Suffolk County District Court, in which the plaintiff was Capital One Bank and the three defendants were Neil Vigorito, Susan Seminara and Mark DiRosa. In addition, all three involved alleged nail and mail service and the index number purchase date was February 5, 2008. In all three affidavits, the claimed first attempt at service was February 1, 2008; the second claimed attempt at service was February 2, 2008; and the third and final claimed attempt at service was February 9, 2008. All three bear the name and purported signature of Andrea D'Ambra and the signed name "William Singler" appears as the notary, with a date of February 11, 2008. D'Ambra stated that she did not recognize the signature on the three affidavits of service as hers.

Dated: April __, 2009

_____, New York

False statements made herein are punishable as a Class A misdemeanor pursuant to Penal Law § 210.45.

Sandra Migaj
Investigator
New York State Attorney General's Office